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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,638

01/26/2004

Russell A. Budd

YOR920000326US2

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7590

12/13/2006

Ryan, Mason & Lewis, LLP
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Locust Valley, NY 11560

EXAMINER

BECK, ALEXANDER S

ART UNIT

PAPER NUMBER

2629

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/764,638

Applicant(s)

BUDD ET AL.

Examiner

Alexander S. Beck

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Acknowledgment is made of the amendment filed by the Applicant on September 25, 2006, in which: independent Claim 1 is amended; and the rejections of the claims are traversed. Claims 1-3 are currently pending in U.S. Application Serial No. 10/764,638, and an Office Action on the merits follows.

Response to Arguments

2. Applicant's arguments, see pages 3-5, filed September 25, 2006, with respect to the rejections of claims 1-3 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejection are made in view of Tosaki (U.S. Patent No. 5,844,530) and Miyazaki et al. (U.S. Patent No. 6,339,411 B2).

Claim Objections

3. Claim 2 is objected to because of the following informalities: Claim 2 recites the limitation "the optical system housing" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Tosaki (U.S. Patent No. 5,844,530, hereinafter TOSAKI).

As to independent Claim 1, TOSAKI teaches/suggests a head mounted virtual image display unit in Figures 1-4, the unit comprising: a microdisplay (73); an optical system (2) for directing an image signal for viewing by a user, the image signal being generated in accordance with the microdisplay (73); an optical system mounting structure (69) for supporting the optical system (2) within the field of view of an eye of the user; a housing (10,69) to substantially contain at least the optical system (2); and a light shield (80) integrated with the housing (10,69) and having an open position and a closed position, wherein the light shield (80) is positioned with respect to the optical system (2) such that, in the open position, the image signal is viewed by the user with background light entering the optical system (2), and in the closed position, the image signal is viewed by the user with background light at least partially blocked from entering the optical system (2) (TOSAKI: col. 7, ln. 45 – col. 8, ln. 30).

As to Claim 2, TOSAKI teaches/suggests in Figures 3,4 wherein the light shield (80) is slidably integrated in the housing (10,69) such that the light shield (80) may be slid (i.e. to move over a surface while maintaining smooth continuous contact) between the open position and the closed position (TOSAKI: col. 7, ln. 59 – col. 8, ln. 4).

As to Claim 3, TOSAKI teaches/suggests wherein the light shield is one of opaque, partially opaque, colored and polarized (TOSAKI: col. 7, ln. 59 – col. 8, ln. 4).

6. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Miyazaki et al. (U.S. Patent No. 6,339,411 B2, hereinafter MIYAZAKI).

As to independent Claim 1, MIYAZAKI teaches/suggests a head mounted virtual image display unit in Figure 1, the unit comprising: a microdisplay; an optical system for directing an image signal for viewing by a user, the image signal being generated in accordance with the microdisplay; an optical system mounting structure for supporting the optical system within the field of view of an eye of the user; a housing to substantially contain at least the optical system; and a light shield integrated with the housing and having an open position and a closed position, wherein the light shield is positioned with respect to the optical system such that, in the open position, the image signal is viewed by the user with background light entering the optical system, and in the closed position, the image signal is viewed by the user with background light at least partially blocked from entering the optical system (MIYAZAKI: col. 1, ln. 4-32).

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As to Claim 3, MIYAZAKI teaches/suggests wherein the light shield is one of opaque, partially opaque, colored and polarized (MIYAZAKI: col. 1, ln. 4-32).

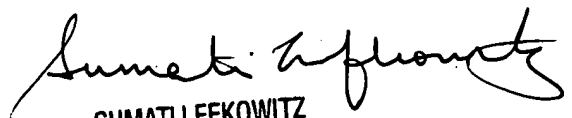
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander S. Beck whose telephone number is (571) 272-7765. The examiner can normally be reached on M-F, 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

asb
12/7/06


SUMATI LEFKOWITZ
SUPERVISORY PATENT EXAMINER